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ABSTRACT

This digest compares the Americans with Disabilities Act of 1990 (ADA), the Individuals with Disabilities Education Act (IDEA) as amended in 1997, and Section 504 of the Rehabilitation Act of 1973. Comparisons are provided which look at: (1) the type/purpose of each Act; (2) eligibility for services under each Act; (3) whether the Act requires the provision of a free, appropriate public education; (4) whether federal funds are provided to implement the Act's requirements; (5) procedural safeguards and due process provisions under each Act; and (6) evaluation and placement procedures under each Act. Also included are telephone information lines and Web sites concerning each of the three Acts. (DB)

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OVERVIEW OF ADA, IDEA, & SECTION 504: UPDATE 2001

By

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OVERVIEW OF ADA, IDEA, AND SECTION 504: Update 2001

Kelly Henderson

Americans With Disabilities Act of 1990 (ADA)	Individuals with Disabilities Education Act (IDEA), amended in 1997	Section 504 of The Rehabilitation Act of 1973
	Type/Purpose	
A civil rights law to prohibit discrimination solely on the basis of disability in employment, public services, and accommodations.	An education act to provide federal financial assistance to state and local education agencies to guarantee special education and related services to eligible children with disabilities.	A civil rights law to prohibit discrimination on the basis of disability in programs and activities, public and private, that receive federal financial assistance.
	Who Is Eligible?	
Any individual with a disability who (1) has a physical or mental impairment that substantially limits one or more life activities; or (2) has a record of such an impairment; or (3) is regarded as having such an impairment. Further, the person must be qualified for the program, service or job.	Children and youth aged 3-21 who are determined through an individualized evaluation and by a multidisciplinary team (including the parent) to be eligible in one or more of 13 categories and who need special education and related services. The categories are autism, deaf-blindness, deafness, emotional disturbance, hearing impairment, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment including blindness. Children aged 3 through 9 experiencing developmental delays may also be eligible. Infants and toddlers from birth through age 2 may be eligible for early intervention services, delivered in accordance with an individualized family service plan.	Any person who (1) has a physical or mental impairment that substantially limits one or more major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. Major life activities include caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. The person must be qualified for the services or job; in the case of school services, the person must be of an age when nondisabled peers are typically served or be eligible under IDEA.
	Responsibility To Provide a Free, Appropriate Public Education (FAPE)?	
Not directly. However, ADA protections apply to nonsectarian private schools, but not to organizations or entities controlled by religious organizations. ADA provides additional protection in combination with actions brought under Section 504 And IDEA. Reasonable accommodations are required for eligible students with a disability to perform essential functions of the job. This applies to any part of the special education program that may be community-based and involve job training/placement. Although not required, an IEP under IDEA will fulfill requirements of Title II of the ADA for an appropriate education for a student with disabilities.	Yes. A FAPE is defined to mean special education and related services that are provided at no charge to parents, meet other state educational standards, and are consistent with an individualized educational program (IEP). Special education means "specially designed instruction, at no cost to the parents, to meet the unique needs of the child with a disability." Related services are those required to assist a child to benefit from special education, including speech-language pathology, physical and occupational therapy, and others. A team of professionals and parents develop and review at least annually, an IEP for each child with a disability. IDEA requires certain content in the IEP.	Yes. An "appropriate" education means an education comparable to that provided to students without disabilities. This may be regular or special education. Students can receive related services under Section 504 even if they are not provided any special education. These are to be provided at no additional cost to the child and his or her parents. Section 504 requires provision of educational and related aids and services that are designed to meet the individual educational needs of the child. The individualized educational program of IDEA may be used to meet the Section 504 requirement.

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Americans With Disabilities Act of 1990 (ADA)	Individuals with Disabilities Education Act (IDEA), amended in 1997	Section 504 of The Rehabilitation Act of 1973
	Funding To Implement Requirements?	
No, but limited tax credits may be available for removing architectural or transportation barriers. Also, many federal agencies provide grants to public and private institutions to support training and technical assistance.	Yes. IDEA provides federal funds under Parts B and C to assist state and local educational agencies in meeting IDEA requirements to serve infants, toddlers, children, and youth with disabilities.	No. State and local jurisdictions have responsibility. IDEA funds may not be used to serve children found eligible only under Section 504.
	Procedural Safeguards/Due Process	
The ADA does not specify procedural safeguards related to special education; it does detail the administrative requirements, complaint procedures, and consequences for noncompliance related to both services and employment. The ADA also does not delineate specific due process procedures. People with disabilities have the same remedies that are available under Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991. Thus, individuals who are discriminated against may file a complaint with the relevant federal agency or sue in federal court. Enforcement agencies encourage informal mediation and voluntary compliance.	IDEA provides for procedural safeguards and due process rights to parents in the identification, evaluation and educational placement of their child. Prior written notice of procedural safeguards and of proposals or refusals to initiate or change identification, evaluation, or placement must be provided to parents. IDEA delineates the required components of these notices. Disputes may be resolved through mediation, impartial due process hearings, appeal of hearing decisions, and/or civil action.	Section 504 requires notice to parents regarding identification, evaluation, placement, and before a "significant change" in placement. Written notice is recommended. Following IDEA procedural safeguards is one way to meet Section 504 mandates. Local education agencies are required to provide impartial hearings for parents who disagree with the identification, evaluation, or placement of a student. Parents must have an opportunity to participate in the hearing process and to be represented by counsel. Beyond this, due process is left to the discretion of local districts. It is recommended that they develop policy guidance and procedures.
	Evaluation/Placement Procedures	
The ADA does not specify evaluation and placement procedures; it does specify provision of reasonable accommodations for eligible students across educational activities and settings. Reasonable accommodations may include, but are not limited to, redesigning equipment, assigning aides, providing written communication in alternative formats, modifying tests, reassigning services to accessible locations, altering existing facilities, and building new facilities.	With parental consent, an individualized evaluation must be conducted using a variety of technically sound, unbiased assessment tools. Based on the results, a team of professionals (including the parent of the child) determines eligibility for special education. Reevaluations are conducted at least every 3 years. Results are used to develop an IEP that specifies the special education, related services, and supplemental aids and services to be provided to address the child's goals. Placement in the least restrictive environment (LRE) is selected from a continuum of alternative placements, based on the child's IEP, and reviewed at least annually. IEPs must be reviewed at least annually to see whether annual goals are being met. IDEA contains specific provisions about IEP team composition, parent participation, IEP content, and consideration of special factors.	Section 504 provides for a replacement evaluation that must involve multiple assessment tools tailored to assess specific areas of educational need. Placement decisions must be made by a team of persons familiar with the student who understand the evaluation information and placement options. Students with disabilities may be placed in a separate class or facility only if they cannot be educated satisfactorily in the regular education setting with the use of supplementary aids and services. Significant changes to placement must be preceded by an evaluation. Section 504 provides for periodic reevaluation. Parental consent is not required for evaluation or placement.

Telephone Information Lines

The Americans with Disabilities Act (ADA) information line, 1-800-514-0301 or 1-800-514-0383 (TDD).
U.S. Office of Civil Rights, 1-800-421-3481.

Websites

Americans with Disabilities Act *http://www.usdoj.gov/crt/ada/adahom1.htm*
Section 504 of the Rehabilitation Act *http://www.ed.gov/offices/OCR/disability.html*
Individuals with Disabilities Education Act *http://www.ideapractices.org/lawandregs.htm*

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